

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: John Wallner, et al.

Serial No.: 09/971,097

Filed: October 3, 2001

For: SWITCHING APPARATUS FOR HIGH SPEED
CHANNELS USING MULTIPLE PARALLEL
LOWER SPEED CHANNELS WHILE
MAINTAINING DATA RATE

Group Art Unit: Unknown

Examiner: Unknown

Attorney Docket: 06979.0013

APR 22 2002
PATENT & TRADEMARK OFFICE
U.S. DEPT. OF COMMERCE
182CERTIFICATE OF MAILING/TRANSMISSION
(37 C.F.R. § 1.8(a))

I hereby certify that this correspondence is, on the date shown below, deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

April 9, 2002
Date
Mary M. PadillaPETITION UNDER 37 CFR §1.47(a)Commissioner For Patents
Washington, D.C. 20231

Dear Sir:

This petition is submitted under 37 C.F.R. §1.47(a) to complete the filing requirements for the above-identified Application. One of the joint inventors, Mr. John Wallner, has refused to join in the application for patent.

As outlined in the MPEP §409.03(a), to fulfill the conditions under 37 C.F.R. §1.47(a) the following requirements must be met.

- A. (1) All the available joint inventors must make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175, and
(2) All the available joint inventors must make oath or declaration on behalf of the non-signing joint inventor as required by 37 CFR 1.64.

Attached hereto is a declaration signed by all available joint inventors to fulfill the requirements of A(1). Furthermore, the declaration includes the signatures of all available inventors with the signature block of the non-signing inventor left blank. As provided under MPEP §409.03(a) the Applicants request that this declaration be treated as having been signed by all the available joint inventors on behalf of the non-signing inventor, to fulfill the requirements of A(2).

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B. The Application must be accompanied by proof that the non-signing inventor (1) cannot be found or reached after diligent effort or (2) refuses to execute the application papers.

Attached hereto is a Statement of Facts by Mr. Daniel Tagliaferri presenting facts showing that the non-signing inventor, Mr. John Wallner, refuses to sign the application papers.

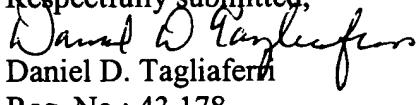
C. The last known address of the non-signing inventor must be provided.

The last known address of Mr. John Wallner is:

John Wallner
26500 W. Agoura Road, #381
Agoura Hills, CA 91302

Enclosed is a check in the amount of \$130.00, the filing fee for the subject petition, as set forth in 37 C.F.R. 1.17(i).

Should no proper payment be enclosed herewith, as a check being in the wrong amount, unsigned, postdated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 13-0201. With the exception of the Issue Fee, payment of which will be separately authorized, the Commissioner is hereby authorized to charge any additional fees which may be required in this application under 37 CFR §§1.16-1.17 during its entire pendency, or to credit any overpayment, to Deposit Account No. 13-0201.

Respectfully submitted,

Daniel D. Tagliaferri
Reg. No.: 43,178

April 9, 2002
COUDERT BROTHERS LLP
600 Beach Street, 3rd Floor
San Francisco, CA 94109
Telephone: (415) 409-2900
Telefax: (415) 409-7400



**Statement of Facts by
Daniel D. Tagliaferri**

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I, Daniel Tagliaferri, do hereby state that:

1. I am an Attorney representing Internet Machine Corporation in patent matters before the U.S. PTO.
2. I have been authorized by the signing joint inventors to prosecute this case.
3. In the Fall of 2001, Mr. John Wallner left the employment of Internet Machine Corporation.
4. On October 10, 2001, I sent a copy of the Patent Application and formal declaration and assignment papers to Mr. John Wallner at his home address.
5. Sometime after October 10, 2001, I conducted a telephone conversation with Mr. John Wallner to verify that he received the application and formal papers that I sent to his home address. At that time, Mr. Wallner stated that he had received the application and formal papers at his home address. Mr. Wallner also stated that he had retained Mr. Jon Kardassakis as an attorney to represent him in a legal dispute with Internet Machines Corporation. Mr. Wallner stated that any further contact regarding the application papers should be conducted through Mr. Jon Kardassakis
6. During the beginning of December 2001, I contacted Mr. Jon Kardassakis to inquire whether Mr. Wallner had reviewed the application and would be signing the formal papers. Mr. Jon Kardassakis indicated that Mr. Wallner had not signed the application papers and that he did not know whether Mr. Wallner would sign the application papers.
7. During the end of December 2001, I again contacted Mr. Jon Kardassakis to inquire whether Mr. Wallner would be signing the formal papers. Mr. Jon Kardassakis indicated that Mr. Wallner had not signed the application papers and did not know whether Mr. Wallner would sign the application papers.
8. On March 22, 2002, I sent the application and formal papers directly to Mr. Jon Kardassakis via Federal Express for his review.
9. Sometime after March 22, 2002, I again telephoned Mr. Jon Kardassakis to

inquire whether Mr. Wallner would be signing the application papers. At that time, Mr. Kardassakis indicated that Mr. Wallner had not signed the Application papers, and that Mr. Wallner had several "problems" with signing the Application papers. I asked Mr. Kardassakis to identify all the "problems" were so that they could be addressed. At that time Mr. Kardassakis said he did not know what all the problems were and that he and Mr. Wallner were very busy and could not make time to identify all the problems.

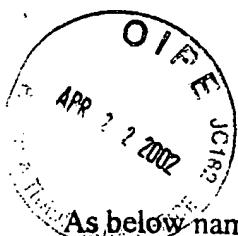
10. At this time, it is still not known what all the "problems" are, or whether Mr. Wallner will ever sign the Application papers. It is believed that Mr. Wallner's refusal to sign the application papers is related to the dispute between Mr. Wallner and the Internet Machines Corporation.

The undersigned hereby declares that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 4 / 9 / 02

By: Daniel D Tagliaferri
Daniel D. Tagliaferri

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DECLARATION FOR PATENT APPLICATION

As below named inventors, we hereby declare that:

Our residence, post office address and citizenship are as stated below next to our name.

We believe we are an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

SWITCHING APPARATUS FOR HIGH SPEED CHANNELS USING MULTIPLE PARALLEL LOWER SPEED CHANNELS WHILE MAINTAINING DATA RATE

the specification of which (check one)

is attached hereto.

was filed by an authorized person on my behalf on _____

as Application Serial No. _____

and was amended on _____

(if applicable)

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We hereby state that we have reviewed and understand the contents of the above-identified specification, including the claims as amended by any amendment referred to above.

We acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

We hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and so identified, and we have also identified below any foreign application for patent or inventor's certificate on this invention filed by us or our legal representatives or assigns and having a filing date before that of the application on which priority is claimed.

<u>Number</u>	<u>Country</u>	<u>Day/Month/Year Filed</u>	<u>Priority Claimed (Yes or No)</u>
NONE			

We hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, we acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No.
NONE

Filing Date

Status

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

We hereby appoint the following attorneys and patent agent, with full power of substitution and revocation, to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith and request that all correspondence and telephone calls in respect to this application be directed to COUDERT BROTHERS, 600 Beach St., Third Floor, San Francisco, CA 94109-1312, Telephone No. (415) 409-2900:

<u>Attorney</u>	<u>Reg. No.</u>
J. Bruce McCubbrey	20,687
Donald L. Bartels	28,282
David Schnapf	31,566
Robert D. Becker	37,778
Richard A. Dannells, Jr.	22,654
John W. Carpenter	26,447
James W. Drapinski	46,242
Jerry G. Wright	20,165
Daniel D. Tagliaferri	43,178
James A. Fox	38,455
Edward J. Lynch	24,422

<u>Patent Agent</u>	<u>Reg. No.</u>
Hal R. Yeager	35,419
Steven R. Vosen	45,186

Full name of first joint inventor: John Wallner

Inventor's signature: _____

Date: _____

Residence and Post Office Address: _____

Citizenship: _____

Full name of second joint inventor:

Todd L. Khacherian

Inventor's signature:



Date:

Residence and Post Office Address:

4060 Summershade Lane
Moorpark, CA 93021

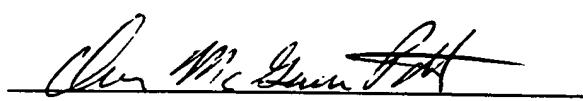
Citizenship:

United States of America

Full name of third joint inventor:

Darrin McGavin Patek

Inventor's signature:


09/28/01

Date:

Residence and Post Office Address:

3090 Rollings Avenue
Thousand Oaks, CA 91360

Citizenship:

United States of America

Full name of fourth joint inventor:

Shaun Clem

Inventor's signature:


09/28/01

Date:

Residence and Post Office Address:

871 Calle Jazmin
Thousand Oaks, CA 91360

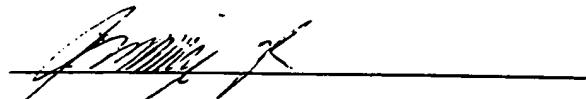
Citizenship:

United States of America

Full name of fifth joint inventor:

Jimmy Pu

Inventor's signature:


9/28/2001

Date:

Residence and Post Office Address:

28514 Conejo View Drive
Agoura Hills, CA 91301

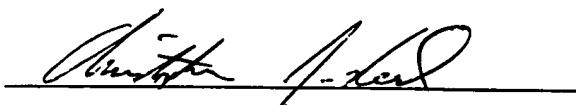
Citizenship:

United States of America

Full name of sixth joint inventor:

Chris Reed

Inventor's signature:


10-2-01

Date:

Residence and Post Office Address:

5134 Beachcomber Way
Oxnard, CA 93035

Citizenship:

United States of America

Address for Correspondence:

COUDERT BROTHERS
600 Beach Street, Third Floor
San Francisco, CA 94109-1312

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